

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GREGORY McNEILL and WILMA
ARMER, individually and on behalf of all
others similarly situated

Plaintiffs,

v.

OPENMARKET, INC., SPRINT
SPECTRUM, L.P., and NEXTEL WEST
CORPORATION,

Defendants.

No. C 08-1731 RSL

**STIPULATED REQUEST TO STAY
PROCEEDINGS PENDING
SETTLEMENT NEGOTIATIONS**

1 Plaintiffs Gregory McNeill and Wilma Armer (collectively "Plaintiffs") and Defendant
2 OpenMarket, Inc. ("OpenMarket"), hereby stipulate and respectfully request that the Court stay
3 this litigation as to Defendant, including the obligation to respond to any pending motion or
4 engage in discovery, for 60-days, through and including March 29, 2010. In support of this
5 Stipulation, Plaintiff and OpenMarket state as follows:

6 **WHEREAS**, on October 28, 2008, Plaintiffs filed their First Amended Complaint in the
7 Superior Court for the State of Washington, King County, captioned *Armer v. OpenMarket, Inc.,*
8 *Sprint Spectrum, L.P., and Nextel West Corporation*, No. 08-2-32201-7 SEA;

9 **WHEREAS**, on December 1, 2008, Sprint removed the case to this Court pursuant to the
10 Class Action Fairness Act of 2005 ("CAFA");

11 **WHEREAS**, Plaintiffs' counsel and Defendant OpenMarket are currently engaged in
12 advanced settlement discussions that will resolve the claims pending against Defendants in this
13 action, as well as other class action lawsuits filed against Defendants in state and federal courts
14 across the country and the Parties are scheduled to continue those discussions over the next 60
15 days.

16 **WHEREAS**, Plaintiffs and Defendant OpenMarket seek this stay so that they may focus
17 their efforts on settlement discussions without incurring additional fees and costs related to
18 engaging in class and merits based discovery, briefing Plaintiffs' anticipated motion for class
19 certification, and Defendant's dispositive motions;

20 **NOW THEREFORE**, the Parties hereby **STIPULATE** and **AGREE** as follows:

21 1. Plaintiffs Gregory McNeill and Wilma Armer and Defendant OpenMarket agree
22 to stay these proceedings and all aspects of Plaintiffs' case against Defendants, including the
23 obligation to engage in class and merits based discovery, as well as briefing Plaintiffs'
24 anticipated motion for class certification;

25 2. These proceedings and all aspects of Plaintiffs' case against Defendants,
26 including the obligation to engage in class and merits based discovery, briefing Plaintiffs'

1 anticipated motion for class certification and Defendant's dispositive motions, are hereby stayed
2 for 60-days, through and including March 29, 2010.

3 3. The Parties will apprise the Court by April 1, 2010 of the progress of settlement
4 discussions.

5 **IT IS SO STIPULATED.**

6
7 Dated: January 27, 2010

LAW OFFICES OF CLIFFORD A. CANTOR, P.C.

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11 *Attorneys for Plaintiffs*

12 *Gregory McNeill and Wilma Armer*

13 Dated: January 27, 2010

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18 *Attorneys for Defendant OpenMarket, Inc.*

23 **Certificate of Service**

24 I certify that, on Jan. 27, 2010, I caused this document to be filed with the Clerk of the
25 Court via ECF, which will send copies to all counsel of record.

26 /s/ Clifford Cantor, WSBA # 17893